

# **MEETING OF THE BOARD OF BANK ADVISORS**

February 22, 2016

11:00 am

Department of Financial Institutions  
324 South State Street, Suite 201  
Salt Lake City Utah

## **Minutes**

### **BOARD MEMBERS PRESENT:**

Eric Schmutz, Matt Packard, Jason Price, and Craig White. Roger Shumway was excused.

### **DEPARTMENT OF FINANCIAL INSTITUTIONS STAFF PRESENT:**

Tom Bay, Paul Allred, Paul Cline, Andrea Staheli, Darryle Rude, Layne Blanch, Eva Rees, Commissioner Ed Leary, and Sonja Long

### **OTHERS PRESENT:**

Ray Dardano, Marlin Business Bank; Jon Allen, People's Intermountain Bank; Don Norton, Capital Community Bank; John Sorenson, Home Savings Bank; Lew Goodwin, Green Dot Bank; Nathan Morgan, Continental Bank.

#### **1. Call Meeting to Order – Chairman Jason Price**

#### **2. Minutes –**

Matt Packard made a motion to accept the minutes, Eric Schmutz seconded the motion. It was unanimous.

#### **3. Elect new chairman and vice-chairman –**

Jason Price opened the floor for nominations for a new chairman. Matt Packard nominated Craig White, Eric Schmutz seconded the nomination. Craig White nominated Matt Packard as vice-chair. It was unanimous for both nominations. Jason turned the meeting over to Craig.

#### **4. Overview of Payday Lending In Utah – Paul Cline**

Tom Bay introduced Paul Cline, Paul is the Supervisor of Money Services Businesses. Tom asked Paul to give an overview of the payday industry. It has been in the news a bit lately and sometimes intersects with your industry.

“The industry that everyone loves to hate”. Paul explained some of the calls that he gets. (See the handout attached with the minutes.) Payday lending is very misperceived in the public. In Utah it is loan secured by a check, you write a check and get the money now and it will be cashed in a couple of weeks. Technically what a deferred deposit loan is covered in Chapter 23 in our title. We have some specific consumer protections for borrowers, specifically for payday lending. All of the details are listed on the handout that has been attached.

Eric Schmutz said that a lot of the risk that they run into unbeknownst to them is that they have a customer that they had not identified as a money services business and they were cashing checks and they became aware of it through an audit. Matt Packard asked if Paul could imagine the CFPB rolling all of those types of businesses in with overdraft protection. He said that they have been back in Washington talking about their heightened interest in how overdrafts are handled. Do you see all four of those industries molded into one? Paul said that he could address three of them, but he hasn't heard a lot about the overdraft issue. In March 2015 the CFPB put out some proposed rules for the short term lending, it appeared that they tried to throw a wide net and capture as many of these types of lenders as they could. The CFPB recognizes that these lenders will morph or change their business when new rules come out to skirt the law. The CFPB put out those rules and they received feedback on those. Everyone is now waiting to see what those rules will be. Paul feels like that will change the industry. Those proposed rules cover payday loans, vehicle title loans, and certain high cost installment, open ended loans. He has not heard of overdrafts being mentioned in this area. He said that their goal is three-fold; they want to prevent, protect, and have some collection rules. Everyone is waiting on those rules. He has seen a decrease in deferred deposit lender registrations, but he has seen an increase in title lending registrations. There has been a trend of people getting out of payday lending and going into installment lending, but it seems to be that everything is kind of waiting right now. Our department is required to visit every single location once a year. We do a compliance exam and review that they are compliant with all of the rules and regulations. Each company pays for their exam based on the amount of time expended. In 2015 four fines were issued based on those examinations. Lew Goodwin said that they have had a lot of conversations with the CFPB. He feels that they kind of overreached at first in the original small dollar lending rules, but now they are trying to find a place where they can actually survive. The industry is afraid that when those rules come out it will be the death of payday lending. Lew said that the bad part is is that there are a large group of people that don't have any place else to go to borrow. They are trying to find something that works a little better. Paul agreed and hopes that they strike a balance of some type. Matt said that from a banking standpoint they will bring the overdrafts into the same net.

Commissioner Leary said that from our perspective it is the bleed over effect into what you consider mainline banking is a concern for the department. And jointly with Howard

and Utah Bankers as well as Utah Association of Financial Services, we are trying to monitor if we think it represents a threat. One area is interest rate caps; it cannot just apply to payday lending but will eventually flow over to other areas. Any method used to attack payday lending is considered for its bleed over effect into other industries. Second point, Paul's complete title is Supervisor of Money Services Businesses, it isn't just payday. We do almost 600 exams a year in his industries and it is the same group of examiners that are in your banks. We don't send anyone in alone, so each of those exams has two people on it. It is a major resource allocation on our part. Eva Rees said that in Utah there are a lot of protections for consumers, the industry is highly regulated and that isn't necessary the priority with the CFPB.

## **5. Legislative Update – Paul Allred**

We talked in the last meeting about the bill that the department wanted to run, SB 55 is that bill. It puts in place the definition for Technology Service Providers and makes clear that the department has the authority to go in and examine a third party technology service provider. It has passed both houses, has been enrolled and is awaiting the Governor's signature.

The second thing we also discussed at our last meeting about the Mortgage Bankers Association and their efforts to first be regulated by the department and then use the word banker in their name. The bill that they ran is HB 177, it is moving from the house over to the senate. Eva and Paul and Commissioner Leary attended the house committee hearing on that. If you look at the bill, you almost wonder what is going on with it. The language says that if you are a mortgage lender and you do six things then you have to register with our department as well as be licensed by the Real Estate Division. It has been described as one small step to move the mortgage lenders over to be regulated by our department. Commissioner Leary clarified that these are non-depository lenders. One of the largest is Academy Mortgage. It is not the kind of thing that anyone has opposed yet. Jon Allen asked if the department was opposed to this bill, Paul said that we are not opposed, just unsure of the dual jurisdiction.

The other item that was in our last meeting minutes Paul commented on the marijuana battle and he truly believed that the department would be able to stay out of that battle during this session because he didn't believe that we offered a solution last year. Those companies that sell marijuana throughout the country have difficulty establishing relationships with depository institutions because it is a violation of federal law to engage in anything dealing with marijuana. Banks have been very concerned about being involved in marijuana related businesses in offering a banking relationship. We went through that last year. We were brought in about a week and a half ago on a conversation on Senator Vickers bill, SB 89. Senator Vickers and Representative Daw are very concerned about having a cash based business. If you look at SB 89, we are squarely in the middle of it. This envisions the department regulating a payment processor as a gateway into the electronic payment system for the growing, distribution, and purchase of medical marijuana. They envision one licensee, we've given input to the sponsors that we think it has some shortcomings. They are currently working on meeting our concerns.

Commissioner Leary said that this is a very hotly, emotional topic right now. He said that 20 other states have at least medical marijuana. Paul said that the reason that the legislature is taking this up is because there is a group that has said that if the legislature doesn't do this they will run a campaign to put in on the ballot.

There are two payday lender bills. We are currently going through a Legislative Auditor General audit specifically related to payday lending. One is a compromise from Representative Daw and Senator Dabakis has another bill.

## **6. Bank performance trends – Tom Bay**

Tom gave out his performance trends report. He went through the report. It will be emailed out after the meeting.

## **7. Commissioner's comments – Commissioner Leary**

We have talked about over the last year about UBA and UAFS using some of our restricted fund to help create the Center for Innovation in Banking and Financial Services at the Liassonde Institute at the University of Utah. It was going through a number of steps and processes to get that money transferred from us to them. The first payment has been made and then we will be able to make those two additional payments as long as the performance measures are met. This is something that has never been done before in any state.

One of the major focuses for our department this year is that we are gearing up for a new examination tool program coming jointly from the states and the FDIC. Over the next six months you will see the roll out of the new examination management tool suite that will involve fundamentally changing the program examiners use to examine your banks. This will not affect those of you who are FED member banks. It requires new computers for us to facilitate that. We have been given the approval those new computers in July. The target is the first of October to start using that. There was a brief discussion about any changes for the banks.

Darryle Rude brought up the new Intrex system that is for the IT side of things. Andrea Staheli has been involved in that. She introduced it at the last meeting. The pilot will be finished this summer. She will give a presentation to this meeting when it becomes closer to going into effect. They are trying to bring it back to the risk focus.

## **8. Date of next meeting – May 16, 2016 – 11:00 am**